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Public Hearing Date: March 13, 2007
Land Use Action Date: May 8, 2007
Board of Aldermen Action Date: May 21, 2007
90-Day Expiration Date: June 11, 2007

TO: Board of Aldermen

FROM: Michael Kruse Director of Planning and Development
Nancy Radze Chief Planner
Alexandra Ananth, Planner

DATE: March 13, 2007

SUBJECT: Petition #40-07 of ANTHONY BONADIO for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct a total of five (5) dwelling units in two attached buildings at 13 ELM STREET, WEST NEWTON, Ward 3, on land known as Sec. 33, Blk. 23, Lot 16, containing approx. 30,948 sq. ft. of land in a district zoned MULTI-RESIDENCE 1.

EXECUTIVE SUMMARY

The petitioner is proposing to demolish an existing two-family dwelling and detached garage, and terminate an existing non-compliant landscaping business, and redevelop the subject property with five (5) dwelling units. Three of the units would be located within a three-unit attached dwelling structure near the street and the other two units would be located in a two-family structure at the rear of the site.

ELEMENTS OF THE PETITION

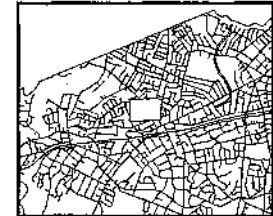
The petitioner is seeking approval of a special permit to allow for 5 attached dwelling units, within two new buildings on the 30,948 sq. ft subject property. A three-unit attached dwelling structure would be located near the street, while a two-family structure is proposed near the rear. The petitioner is proposing a total of 14 parking stalls on site. Each unit would have a single car garage and one exterior brick paved stall. Units #1, #3, #4 and #5 would also have an additional tandem parking space in front of the garage.

13 Elm Street

Zoning Map

- Zoning Districts
- Single Res. 1
 - Single Res. 2
 - Single Res. 3
 - Business 1
 - Business 2
 - Business 4
 - Business 5
 - Um. Menuf.
 - Manuf.
 - Multi-Res. 1
 - Multi-Res. 2
 - Multi-Res. 3
 - Multi-Res. 4
 - Mixed Use 1
 - Mixed Use 2
 - OS/Rec.
 - Public Use
- Newton Boundary
- Street Rights-of-Way
- Street Names
- Buildings
- Property Boundaries
- Address Numbers

1" : 215.7'



This information on this map is from a digital data base accessed using the Newton Geographic Information System (GIS). Newton cannot guarantee the accuracy of the information contained on this map. Each user of this map is responsible for determining its suitability for his or her intended use or purpose. City departments will not necessarily approve applications based solely on GIS data. Applicants for city permits and licensees must inquire of the relevant city department for applicable requirements. City staff cannot errors in these data as they are identified. Newton's GIS Administrator maintains records regarding the source materials and methods used to create the digital data and will add this information upon request.

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06-Feb-2007

In effect, the proposed development contains two uses; a 3-unit attached dwelling structure and a two-family dwelling. The subject property is located in a Multi-Residence 1 zoned district, which accommodates two-family dwellings as of right, and attached dwelling units subject to the grant of a special permit.

The subject project is located on the west side of Elm Street between River and Webster Streets and is currently improved with a 2-family residence and detached garage. *The petitioner has stated that there is also a non-compliant landscaping business that is currently being operated on the site, which would be terminated if this special permit is approved.*

The subject lot was created in 1960 as part of a subdivision plan creating three new smaller lots out of the existing tract of land at 13 Elm Street. The new lots were approved pursuant to Variance #7-60 (*SEE ATTACHMENT "A"*) issued by the Zoning Board of Appeals, and as shown on a plan dated July 6, 1960. While zoning relief was approved for the adjacent property at 5-7 Elm Street for frontage, no relief was needed for the subject lot. Based on the lot creation date the "post-1953" density and dimensional controls apply to the subject parcel.

II. ZONING RELIEF BEING SOUGHT

Based on the Chief Zoning Code Official's written determination, dated January 18, 2007 (SEE ATTACHMENT "B"), the petitioner is seeking relief from or approvals through the following sections of the Zoning Ordinance:

- 1. Section 30-9(6)(5) allows the Board of Aldermen to grant a special permit in a Multi-Residence District for single family attached dwellings in one or more groups;*
- 2. Section 30-23 for approval of proposed site plan; and*
- 3. Section 30-24(d) for approval of special permit.*

The petitioner is also requesting relief from Section 30-19(m) which allows the Board of Aldermen to grant exceptions to the parking requirements including:

- ✓ Section 30-19(d)(1) & (h)(5) to allow tandem parking spaces at attached dwelling units #1 and #3 in front of the garage.*

However, as these units have two. conforming stalls and the tandem stalls constitute a third stall for each of these units the Commissioner of Inspectional Services has stated that the petitioner does not need to seek waivers for these stalls.

PLEASE NOTE: *The Chief Zoning Code Official (CZCO) notes that the City's Zoning Ordinance does not directly address "hybrid" combinations of development such as this, and that an alternative approach would be to consider the development as comprised of groups of 2 attached dwelling units and 3 attached dwelling units on the same lot. It is noted that the overall development meets the more restrictive dimensional requirements applicable to attached dwellings.*

III. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition, the Board should consider the following:

- *Whether the specific site is an appropriate location for a five (5) dwelling unit development;*
- *Whether the five units and associated new curbcut, driveway, and parking area will result in any vehicular or pedestrian safety concerns; and*
- *Whether the design, mass, and scale of the proposed units and associated parking areas are appropriate to the site and character of the neighborhood.*

IV. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Site

The subject property consists of a 30,948 sq. ft. lot located along the west side of Elm Street between River and Webster Streets, in West Newton. The site is relatively level, and is improved with a mid 19th century vernacular/cape style stucco two-family cottage. A gravel driveway located towards the middle of the front lot line leads back to a much wider parking area and a large detached garage (approx. 1,176 sq. ft.). The petitioner has stated that there is also an existing landscaping business on site that will be terminated if the subject special permit is granted.



Existing 2-family house at 13 Elm Street proposed for demolition



Rear of lot including large gravel drive

B. Neighborhood and Zoning

The subject property is located in West Newton, one block north of the West Newton village commercial area. The parcel is part of a sizable residential area that is for the most part zoned Multi-Residence 1. The block itself consists of a mix of multi-family (generally two-family) and single-family residential uses.

There are some commercial business uses along Auburndale Avenue and River Street and the West Newton Playground is located at the other end of the block along Webster Street. The subject parcel is the only mixed-use parcel on the block. There is a vacant lot behind the subject property on Oak Street.

V. TECHNICAL ANALYSIS

A. Dimensional Controls (Section 30-15)

The following table compares the proposed 5-unit attached dwelling development to the technical requirements in Section 30-15 as follows:

Attached Dwellings in Multi-Residence 1 (by special permit)	Required (for Attached Dwellings)	Proposed
Minimum lot size	15,000 sq. ft	30,948 sq. ft.
Minimum lot area per unit	4,000 sq. ft.	6,190 sq. ft.
Frontage	80 ft.	120 ft.
Setbacks		
Front	25 ft.	25 ft.
Side (north)	25 ft.	32.9 ft.
Side (south)	25 ft.	25 ft.
Rear	25 ft.	25 ft.
Building height	30 ft.	25.7 ft. (3DU) & 26.5 ft. (2DU)
Max. # of stories	2 ¹ / ₂ -stories	2 ¹ / ₂ -stories
Max. Floor Area Ratio (FAR)	-- ¹	.42
Max. lot coverage	25%	22.7%
Min. open space	50%	57%
Min. driveway setback	10 ft.	10 ft.

As illustrated above, the proposed site and both buildings meet all of the dimensional requirements for attached dwellings in an MR-1 District.

Section 30-15, Table 1, establishes the FAR of 0.4 for single- and two-family dwellings in the MR-1 District, but provides no maximum limit for attached dwellings, allowed by special permit. The maximum FAR allowed is subject to the discretion of the Board of Aldermen, pursuant to the special permit review and approval process. The proposed FAR for this proposal is .42, which is slightly higher than the FAR that would be permitted by right.

¹ The Zoning Ordinance does not include a Maximum F.A.R. for attached dwelling, which would be granted through a Special Permit.

C. Parking Requirements (Section 30-19)

The following chart illustrates how the proposed project meets the applicable parking requirements for the proposed 5-unit attached dwelling development.

13 Elm Street Parking Analysis	Ordinance	Proposed
Min. # of parking stalls	10	14
Setbacks MR1 Zone		
Front	25 ft.	—32 ft.
Side	25 ft.	29 ft.
Rear	25 ft.	—75 ft.
Min. stall dimensions	9 ft. x 19 ft.	9 ft. x 19 ft.
Entrance/Exit Drives	12 ft. (min.)/20 ft. (max)	20 ft.
Main driveway	14 ft.	19 ft.

As shown in the table above, the proposed project meets the off-street parking requirements established in Section 30-19. The petitioner is proposing 14 parking stalls on site, three for each unit except for unit #2, which would have two stalls. Each unit would have a single car garage and one exterior brick paved stall. All the units except for unit #2 would also have a third tandem stall in front of the garage. As mentioned earlier, the Commissioner of Inspectional Services has determined that because each unit has two dimensionally conforming parking stalls the proposed tandem stalls do not need a waiver.

D. Inclusionary Units (Section 30-24(f)(3))

Section 30-24 (f)(3) requires that 15% of the total number of units, in this case one (1) unit, be designated for affordable housing where a special permit is required for development. However, Section 30-24(0)(4), Cash Payment, allows an applicant to make a cash payment-in-lieu of providing an affordable unit when the total number of dwelling units proposed in the development will not exceed six units. *The petitioner has stated that the applicant intends to make a cash payment pursuant to Section 30-24(1)(4).*

E. Relevant Site Plan Approval Criteria

1. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements.

The proposed circulation pattern indicates that a new 20 ft. wide curb cut will extend from Elm Street and narrow to a 19 ft. wide driveway that will lead back adjacent to the northern side of the site with a 10 ft. landscape buffer between the proposed driveway and property line. This driveway will run for approximately 140 ft. (or the length of the proposed 3-unit attached dwelling structure) and then turn into the site separating the 3-unit building from the two-unit building.

The petitioner is proposing a grass-paved turn-around area between the two buildings as requested by the Fire Department. *No parking signs should be placed in these areas to ensure they are kept clear of parked*

vehicles at all times. Alternatively, if the Board wants to minimize signage on site, a no parking provision could be incorporated into the condominium documents. *Details of these signs should be submitted to the Engineering Division of the Public Works Department and Planning Department prior to this item being scheduled for a working session, or draft language should be submitted to the Law Department for review and approval prior to the issuance of a building permit.*

The petitioner is proposing 14 parking stalls on site, three for each unit except for unit #2, which would have two stalls. Each unit will have a single car garage and one exterior brick paved stall, next to the individual unit driveway, which leads to the garage. All the units except for unit #2 would also have a third parking stall, located in tandem, in front of the garage. All of the parking stalls appear to be adequately sized and the Planning Department does not foresee any adverse impacts for vehicular movement within the site or in relation to adjacent properties/streets.

As all the units contain 3 bedrooms plus an attic and basement area, and the site is within walking distance to the West Newton Playground and West Newton village commercial district, the Planning Department recommends that the petitioner consider installing a sidewalk or some type of separated pedestrian path through the site.

2. Screening of parking areas and structures on the site from adjoining premises or from the street.

The petitioner is proposing two new Magnolia and Maple trees (among others) in the front yard along Elm Street in order to help screen the proposed exterior parking stalls. The petitioner is also proposing 8 Columnar Hornbeam in the 10 ft. landscape buffer on the northern property line in addition to a 6 ft. privacy fence that is proposed to be installed around the majority of the site.

The petitioner plans to remove five (5) trees on-site and has received a Tree Removal Permit from the City's Tree Warden (*SEE ATTACHMENT "C"*). The Tree Warden will ensure a proper mix of deciduous and evergreen trees on-site and to ensure proper spacing between trees is planned.

3. Avoidance of major topographical changes.

The site is generally level and the project is designed to work with the existing topography. The plans do not indicate any changes of grade in excess of 3 ft.

The Associate City Engineer's written report dated March 1, 2007, is attached (*SEE ATTACHMENT "D"*). The Associate City Engineer has identified a number of issues that should be corrected prior to this item being scheduled for any working session. *Additionally, the petitioner should be expected to address these issues at the Public Hearing. As a public benefit, the Associate City Engineer has suggested that the sidewalk and curbing along the entire frontage should be updated with cement*

concrete and granite curbing. In addition he requests that a construction management plan be submitted to the City Engineer, Commissioner Inspectional Services, and Director of Planning and Development prior to any scheduled working session.

The Fire Department has reviewed and approved the site plans for accessibility and water supply, with the condition that Units 4 & 5 have a sprinkler system installed in accordance with NFPA 13R (*SEE ATTACHMENT "E"*).

4. Consideration of site design including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines.

The three-unit structure will be approximately 84 ft. long and 46 ft. deep with 5 ft. offsets between units to help break up the mass of the façade along the length of the building. Each proposed unit varies in size but range from 2,146 sq. ft. to 2,363 sq. ft. of living space (excluding the basement, attic, and 1-car garage space) and includes 3 bedrooms. The rear building is approximately 57 ft. long by 48 ft. deep. These units are slightly larger with 2,445 sq. ft. of living space, each (excluding basement, attic, and garage space) and 3 bedrooms. Both buildings are 2 1/2 stories high, with average heights of 25.7 ft. and 26.5 ft. respectively. The rear building has been designed to look like a carriage house with barn style garage doors and a cupola.

The petitioner is proposing clapboard wood siding, asphalt shingles for the roofs, and simulated true divided light windows for both buildings.

Although there is a range of Floor Area Ratios in the immediate neighborhood (*SEE NEIGHBORHOOD COMPARISON CHART, ATTACHMENT "F"*), the proposed units will be larger than most and much larger than the average floor area/unit. In relation to the land area, the development will be significantly larger than the average for the neighborhood (average FAR for the neighborhood = —0.2; the proposed FAR = 0.42) as based on information compiled (*and used for purposes of estimating*) from the City Assessor's database. It should be noted that this information includes gross floor area only, which may not exactly match actual conditions but should be assumed. to be a reasonable approximation.

Since site is within walking distance of a village center, an MBTA commuter rail station and MBTA express bus stop, the Planning Department is less concerned with the density of the project (units/acre) than size of the units and overall bulk. *If the petitioner reduces the FAR to 0.4 the gross floor area would be no more than what could be done by right. The Planning Department recommends the petitioner consider reducing the size of one of the units (possibly unit #2 which is already the smallest unit) to bring the*

proposed development into the range of what could be done by right for a single- or two-family dwelling.

Site details indicate yard lights will be set on 5 ft. tall posts at each unit. The Planning Department questions the need for post lighting and recommends the petitioner consider wall-mounted sconces instead. While the petitioner has submitted no information pertaining to lighting levels the petitioner is expected to comply with the City's Light Ordinance as set out in Section 20-23. *The Planning Department recommends the petitioner submit a photometric plan prior to the issuance of a building permit to assure compliance with this section of the Ordinance.*

5. Adequacy of disposal of wastes.

The petitioner has not indicated where trash will be stored for collection. *The petitioner should provide further information on this subject at the Land Use Committee public hearing.*

6. Avoidance of the removal or disruption of historic resources on or off-site.

The existing two-family residence is believed to have been built circa 1860, and as such was deemed preferably preserved by the Newton Historical Commission. The Commission, however, voted to waive the one-year demolition delay based on the proposed plans, which were submitted to the Commission for review (*SEE ATTACHMENT "G"*).

F. Relevant Special Permit Criteria

1. The specific site is an appropriate location for such use/structure.

The site is located in a Multi-Residence 1 District, which is comprised primarily of a mix of single- and two-family dwellings. Given that the proposed design meets all of the dimensional requirements, is within walking distance of a village center, the site seems to be an appropriate location for the proposed use. The Planning Department has some concerns that the unit sizes differ from the existing (neighborhood) average and would recommend a reduction in the size of at least one unit, such that the FAR would not exceed the 0.4 FAR that is permitted by right, within this MR-1 district.

2. The use as developed and operated will not adversely affect the neighborhood.

The Planning Department recognizes the proposed development is well located in relationship to the West Newton village center and availability of public transportation. However, the Planning Department remains concerned about the project scale (bulk), which should show careful respect for neighborhood context.

The Planning Department notes that there are a number of large lots in the immediate neighborhood (>15,000 sq. ft.) that could potentially accommodate attached dwelling developments in the future by special

permit. Additionally, many of the structures in the immediate neighborhood were built before 1900 making this a largely intact historic streetscape (though many of the structures have been vinyl sided) with significantly smaller units than those proposed. If the Board of Aldermen is concerned about the preservation of neighborhood character in relation to the project scale (bulk), the Board may want to ask the petitioner to bring the overall square footage down to 0.4 FAR.

VI. COMPARISON OF THE PROJECT TO THE DRAFT COMPREHENSIVE PLAN

The Planning Department reviewed the proposed petition in light of the October 2006 Draft *Newton Comprehensive Plan*, which is currently docketed with the Board of Aldermen.

One important aspect of the Draft Comprehensive Plan is that it proposes to focus additional housing in the City around village centers and public transportation nodes. In the section titled "Residential Implementing Actions" the *Newton Comprehensive Plan* suggests that housing opportunities should be found in areas that can support high density multi-family uses.

The subject property at 13 Elm Street appears to be in an area of the City where there is some potential for additional housing units along the lines of the Draft Comprehensive Plan. The subject property is located within a block of the West Newton village center, and the commuter rail and express buss lines going into the City of Boston. Given the size of the lot, its proximity to a commercial center and public transportation options, this would appear to be an appropriate site for attached dwellings that comply with dimensional requirements.

One of the other goals of the Draft Comprehensive Plan is to maintain and add to the economic diversity of housing in the City, particularly for those people who cannot afford to buy housing in Newton given median housing values, but also who do not qualify for affordable housing. While the Planning Department believes that attached dwelling use can be appropriate for this site under the right circumstances, a greater diversity in the size of the units would be an added benefit. The Planning Department would recommend that the size of one unit be reduced, and the re-alignment of interior spaces be done in such a way to provide a greater variety in the number of bedrooms among units.

VII. SUMMARY

The subject property is located on the west side of Elm Street between River and Webster Streets near the West Newton village commercial center. The site currently consists of a 30,948 sq. ft. lot improved with a two-family cottage and large detached garage, which would be demolished. There is an existing landscaping business on site that would be terminated if the subject special permit is approved.

The petitioner is seeking to construct two new buildings one containing three 2 1/2-story attached dwelling units and one containing two 2 1/2 story units for a total of five dwelling units on-site. The petitioner is proposing five single-car garages within the proposed new construction and 9 surface parking stalls. The petitioner is requesting waivers for the tandem stalls at the proposed attached dwelling units. The proposed tandem stalls at the

proposed two-family structure are allowed as of right. The proposed site and both buildings meet all of the dimensional and parking requirements for attached dwellings.

As all the units contain 3+ bedrooms and the site is within walking distance to the West Newton Playground and the West Newton village center, the Planning Department recommends that the petitioner consider installing a sidewalk or some type of separated pedestrian path through the site.

In general, the Planning Department supports the proposed development of five (5) dwelling units in two attached buildings at 13 Elm Street, however, we continue to have some concerns that the proposed unit sizes are larger than other residential units in the immediate neighborhood, resulting in an overall FAR for the project that exceeds the 0.4 maximum allowed for single- and two-family structures in MR-1 Districts. The Planning Department would recommend a reduction in the size of at least one unit, such that the FAR would be reduced from 0.42 to something less than 0.4. This may have the added benefit of providing a greater diversity in the number of bedrooms offered within the development and adding to the economic diversity of new housing being built in the City.

At the public hearing the Petitioner should be prepared to respond to all issues raised by the Associate City Engineer and Planning Department.



City of Newton, Massachusetts

Founded 1630 Incorporated a City 1873

City Hall

1000 Commonwealth Avenue, Newton Centre 59

ZONING BOARD OF APPEALS

Detailed Record of Proceedings and Decision

Petition of Mrs. Vincenzo Spoto

No. 7760

For variances of lot frontage at 1a Rim Street, West Newton

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on Tuesday, March 22, 1960 at 7:15 P. M. in the Aldermanic Chamber at City Hall, Newton, Massachusetts.

The following members of the board were present:

V. Stoddard, Bigelow, Chairman
Kenneth D. MaCutcheon, Associate Member
sitting in place of Edward B. Murphy
who was unable to be present
Robert B. Proctor, Member
Maurice A. Reidy, Jr., Member
Hirsh Sharf, Member

The petition was filed with the board on February 12, 1960.

Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the Newton Villager, a newspaper of general circulation in Newton, Massachusetts.

The petitioner was represented at the hearing by John J. Foster, Jr., Esq. Miss Catherine McCarthy appeared in opposition.

The petitioner owns a sizable tract of land at 13 Elm Street, West Newton, part of which lies in private residence district and the remainder in residence D district. At the present time this tract consists of two lots, one of them being occupied by a house and an accessory building, numbered 13 Elm Street; the other consisting of contiguous land running through to Oak Avenue from Elm Street. The petition proposes a subdivision of the combined area of these two lots, so as to create four lots, A, B, C and D, as shown on the plan filed with the petition.

At the hearing certain alternatives in the subdivision were suggested and considered. An amended plan was later filed with the board on May 6, 1960, showing a subdivision creating three lots. Lots A and O satisfy the requirements Of the Zoning Ordinance in every respect. Lot B has sufficient area and lacks only 4.5 feet in frontage on Elm Street.

The board finds that substantial hardship is involved.

The petitioners carry a disproportionate burden of maintenance by reason of the large area of land and limited frontage on Elm Street. Whereas the total width of the two lots on Elm Street would be adequate for two lots, the location of the dwelling on lot B prevents a change in the division line which would provide the required 80 foot frontage for lot B. The proposed width of 75.50 feet may be permitted without detriment to the area, and the variance will not derogate from the intent and purpose of the Zoning Ordinance.

The board has voted unanimously to grant a variance in lot width to premit the subdivision shown in the amended plan filed with the board on May 6, 1960, creating lot A with a frontage of 11035 feet on Oak Avenue and an area of 20,000. square feet, lot B with-a frontage of 75050 feet on Elm Street and an area of 19,435 square feet, and lot C with a frontage of 120900 feet on Elm Street and an area of 30,948 square feet.

ZONING BOARD OF APPEALS

By i "<

Chairman

I vote to grant the variance as set forth above.

K. Stoddard Angelan
Yvonne A. Reidy
Erish Sharp
Kenneth H. C. C. C.
Robert B. Crocker

Filed with the City Clerk,
Monte G. Basbas, on

June 8, 1960.

Zoning Review Memorandum

Dt: January 18, 2007

To: Anthony Bonadio, represented by Jason Rosenberg, Esq.

Fr: Juris Alksnitis, Chief Zoning Code Official

Cc: Michael Kruse, Director, Department of Planning and Development
John Lojek, Commissioner of Inspectional Services

Re: Proposed. five-dwelling unit development

Applicant: Anthony Bonadio

Site: 13 Elm St., W. Newton

SBL: Section 33, Block 23, Lot 16

Zoning: Multi-Residence 1

Lot Area: 30,948 sq. ft.

Current use: Two-family dwelling

Prop. use: 3 att. dwelling units; 1-2F

Background:

The petitioner seeks to demolish an existing two-family dwelling and garage, terminate an existing landscaping business, and redevelop the subject site with five (5) dwelling units. Two of the proposed attached dwelling units will be located within a two-family structure at the rear of the site while three of the units will be located within a three-unit attached dwelling unit structure near the street. The subject development requires a special permit pursuant to the Newton Zoning Ordinance, Sec. 30-24.

Administrative determinations

1. The subject lot was created in 1960 as part of a subdivision plan approved pursuant to Variance #7-60 issued by the Zoning Board of Appeals, and as shown on a plan dated July 6, 1969 as recorded at the Middlesex Registry of Deeds July 15, 1960. While zoning relief was approved for the adjacent property at 5-7 Elm St., no relief was requested for or was needed for the subject lot. Based on the lot creation date, post-53 density and dimensional controls apply. The petitioner is responsible for resolving any differences between submitted documents as to lot size, which is given variously as 30,403 sq. ft. and 30,948sq. ft., but does not affect the results of site analysis for compliance with applicable density and dimensional controls as discussed below.
2. The subject property is located in an MR-1 zone, which accommodates two-family dwellings as of right, and attached dwelling units subject to grant of a special permit and subject to meeting certain dimensional requirements as established in Section 30-9(b)(5). Both 2F and attached dwelling units are subject to respective applicable requirements per Section 30-15, *Table 1, Density & Dimensional Controls in Residence Districts and for Residential Uses*. In addition, the proposed development must satisfy applicable parking requirements as established in Section 30-19 and secure site plan approval from the Board of Aldermen per Sections 30-23 and 30-24.
3. The applicant has provided an analysis, which indicates that the proposed 2-unit dwelling satisfies *Section 30-1, Definitions, "Dwelling, two-family"* (See Ordinance X-38). This proposed two-family dwelling meets the applicable Table 1 controls, as does the proposed three-unit attached dwelling. In effect, the proposed development contains two uses – a two-family dwelling (**available as of right**) and a 3-unit attached dwelling structure (requiring a special permit). However, the NZO does

not directly address such a "hybrid" combination. An alternate approach would be to consider the development as comprised of groups of 2DU and 3DU attached dwellings on the same lot, provided the 2DU structure also qualifies as an attached dwelling. It is noted that the combined development also meets the more restrictive requirements applicable to attached dwellings overall. In any event, the overall site development is subject to grant of special permit pursuant to Section 30-24.

4. *Section 30-15, Table 1*, establishes the FAR of 0.4 for 2F development in the MR-1 zone, but provides no limit applicable to attached dwellings. It is noted that while the 2F dwelling separately meets this requirement, the total FAR for the overall development, including attached dwellings is approximately 0.42. The total FAR allowed is subject to the discretion of the Board of Aldermen pursuant to the special permit review and approval process.
5. *Section 30-19(d)(2)* establishes the number of parking stalls required by the proposed development requiring ten (10) spaces. Fifteen (15) spaces are provided, of which 5 are garaged, 5 are located on brick parking spaces, and 5 are tandem spaces. While *Section 30-19(h)(2)c* requiring handicapped spaces does not apply given the parking configuration at this site, the applicant may wish to consider providing HP parking for potential future residents with disabilities.
6. *Section 30-19(g)* and *30-19(j)(2)* establish the applicable parking layout and design requirements. Submitted plans indicate 5 conforming garage and 3 conforming brick exterior spaces, while two undersize brick spaces (Units #4 and #5) necessitate a waiver per Section 30-19(m). In addition, the petitioner seeks to utilize the driveway areas as tandem spaces at each of the units. Of five potential tandem spaces, three spaces are undersize (Units #2, #4, and #5) necessitating dimensional waivers per Section 30-19(m). In addition, it is noted that while Section 30-19(d)(1) allows tandem spaces at a two-family dwelling, a waiver per Section 30-19(m) is necessary to authorize tandem spaces at attached dwellings (Units #1, #2, and #3). *Section 30-19(i)* requiring perimeter landscaping and *Section 30-1902(1)* establishing lighting requirements at outdoor parking facilities with 6 or more spaces, and *Section 30-19(k)* pertaining to bicycle parking requirements at parking facilities with 20 or more spaces do not apply.
7. *Section 30-5(b)(4)* requires a special permit whenever "...the existing contours of the land are to be altered by more than three (3) feet." The applicant states that the proposed work will not involve re-grading with changes in topography exceeding three feet.
8. *Section 30-24(0)(3), Inclusionary Units*, requires 15% of total units, in this case one (1) unit, be designated for affordable housing where a special permit is required for development. However, *Section 30-24(0)(4), Cash Payment*, allows an applicant to make cash payment in lieu of providing an affordable unit when the total number of dwelling units proposed in the development will not exceed six units. The petitioner's attorney has stated that the applicant intends to make a cash payment to pursuant to Section 30-24(0)(4).
9. While the applicant has submitted no information or request pertaining to signage, the petitioner is responsible for following the procedures and requirements pertaining to the review, approval, and permitting of signs as established in Section 30-20.
10. While the applicant has submitted no information pertaining to lighting levels, the petitioner is responsible for complying with Ordinance X-142, Light Ordinance, as set out in Sections 20-23 through 20-28.

11. The existing 2F was built approximately in the 1850's and is subject to *Section 22-44, Demolition Delay* provisions that apply to buildings over 50 years old. The Newton Historical Commission reviewed the project on February 24, 2005 and agreed to waive the one-year demolition delay subject to final review of the working drawings by NHC Commissioner W. Roesner.
12. Proposed plans include a board fence along much of the right and left lot lines. Such fence must meet the requirements of *Section 20-40, Regulation of Perimeter Fences* and may not exceed 6 ft in height as stated in subparagraph (d)(2).
13. A number of submitted plans lack the respective stamps and signatures of applicable registered professionals preparing the plans and certifying required calculations. Stamped and signed plans should be provided not later than at the time of filing the petition with the Board of Aldermen. In addition, calculations for establishing the average grade plane show only four grade points per structure. The applicant needs to provide a calculation with a larger number of grade points meeting the requirements of the Inspectional Services Department.
14. See "Zoning Relief Summary" below.

Zoning Relief Summary		
Ordinance		Required
	N/A	
30-9(b)(5)	Approval of single family attached dwellings in one or more groups in the MR-1 zone.	X
	N/A	N/A
30-19(g)(2) 30-19(m)	Waiver to reduce stall dimensions from 9 ft. x 19 ft. for two undersize brick paved parking spaces to dimensions shown on plan at units #4 and #5.	X
7 30-19(d)(1) 30-19(h)(5) — 30-19 m	Waiver to allow tandem parking spaces at attached dwelling units #1, #Z and #3.	X
30-9(g)(2) 30-19(m)	Waiver to reduce stall dimensions from 9 ft. x 19 ft. for three undersize tandem parking spaces to dimensions shown on plan at units #2, #4 and #5.	
Zoning Relief Summary (Cont.)		
Ordinance		Action Required
30-23	Approval of site plan	X
	N/A	
30-24 d	Approval of special permit	X

Plans and materials reviewed:

- Variance #7-60, June 8, 1960, Newton Zoning Board of Appeals.

- Record of Action, March 1, 2005, waiving demolition delay.
- Record of Action on Application for Tree Removal Permit, approving application, December 4, 2006.
- Certification as to Compliance with Definitions of Attached Dwelling and Two-Family Dwelling, 11/29/2006.
- Plan set titled "Elm Street Townhouses, 13 Elm St., Newton, MA", dated 1/06/06 prepared by Eckert Associates, Inc., 117 Stoneleigh Rd., Watertown, MA, bearing no stamp or signature of a registered professional, consisting of the following:
 - Sheet A-1 – Title Sheet
 - Sheet A-2 – Floor Plans (#1-3)
 - Sheet A-3 – Floor Plans [elevations]
 - Sheet A-4 – Floor Plans (#4-5)
 - Sheet A-5 – Floor Plans [elevations]
- Plan set titled "13 Elm Street", last revised 1/03/06 prepared by J.F. Hennessy Co., Civil Engineers & Land Surveyors, PO Box 909, Brookline, MA 02446, stamped and signed as indicated below and consisting of:
 - Sheet 2 of 6 – Compiled Area Plan of Land in West Newton, MA, stamped and signed by Richard W. Watson, Professional Land Surveyor.
 - Sheet 3 of 6 – Topographic Plan of Land Showing Proposed Grading in West Newton, MA, stamped and signed by Gunther Gruelich, Registered Professional Engineer.
 - Sheet 4 of 6 – Site Plan of Land Showing Proposed Utilities in West Newton, MA
 - Sheet 5 of 6 – Profile and Details in West Newton, MA, bearing no stamp or signature
 - Sheet 6 of 6 – Details in West Newton, MA, bearing no stamp or signature.
- Plan set titled "13 Elm Street, Newton, MA", prepared by Ryan Associates, Landscape Architecture and Planning, Building 24, 144 Moody St., Waltham, MA 02453, stamped and signed by Thomas R. Ryan, Registered Landscape Architect, and consisting of the following:
 - Sheet L-1.0 – Layout Plan, dated December 15, 2005
 - Sheet L-2.0 – Site Details, dated December 14, 2005
 - Sheet L-3.0 – Tree Removal and Replacement Plan, dated November 15, 2005
 - Sheet L-4.0 – Planting Plan, dated December 9, 2005
 - Sheet L-5.0 – Planting Details, dated December 14, 2005

City of Newton



David B. Cohen
Mayor

RECORD OF ACTION ON APPLICATION
TREE REMOVAL PERMIT

ATTACHMENT "C"

Name of applicant: **Anthony Bonadio**

Property named in application: **13 Elm St.**

Date application received by Tree Warden: **November 30, 2006**

The following action has been taken on this application:

RI Application is approved as submitted.

Permission is hereby granted to remove, transplant and/or replace protected trees to the extent indicated in the application. Any changes from this approved plan must be submitted for review and approval before work continues.

☐ **Application is approved with conditions.**

Permission is hereby granted to remove, transplant and/or replace protected trees to the extent indicated in the application, except as indicated below. Any changes from this approved plan must be submitted for review and approval before work continues.

☐ **Application is incomplete.**

No action will be taken on the application until the following information is submitted:

☐ **Application is denied**

Action taken by: Marc R. Welch, Director of Urban Forestry

ors-- Iselel--
(Tree Warden or designee)

Date of Action: **December 4, 2006**

For additional information, contact the Parks and Recreation Department at (617) 796-1500

Copy to:

☐ Inspectional Services Department

☒ Planning and Development Department

David B. Cohen
Mayor

APPLICATION FOR TREE REMOVAL PERMIT

TREE PRESERVATION ORDINANCE

Sections 20-30 through 20-39, Revised Ordinances, City of Newton

Submit to Tree Warden, Newton Parks and Recreation Department,
70 Crescent Street, Newton, MA 02466

I/We, A r Ho o N 0
(Please print or type name or names)
owner(s) of t 3 -F T, JVPL^e Nt 70A / Aiy 0')(.76
(Please print or type address)

hereby apply for a permit to remove _____ trees from this property,
equaling a total of S diameter inches measured 4.5 feet from the ground.

I/We have attached the following documents to this application, as the Tree Preservation Ordinance requires:

1. A Tree Removal Plan that indicates:

- The shape and dimensions of the parcel of real property to be developed, together with the existing and proposed locations of structures and improvements, id any.
- A tree plan showing the location, type and size of each protected tree indicating which protected tree(s) are to be removed, and the location, type and size of replacement trees.
- The proposed relocation of each existing protected tree AND the statement referenced in Item 2 below.
- The location of existing and proposed underground and overhead utility services, existing and proposed roadways (including driveways), bikeways, walkways and parking areas.
- Any proposed grade changes which might adversely affect or endanger a protected tree AND the statement referenced in Item 2 below.
- The proposed method of protecting the remaining protected trees during the course of construction in accordance with section 20-33 (e) of the Tree Preservation Ordinance. (Note: This section prohibits specific activities with in the drip line of a protected tree except as provided in a tree removal permit.)

2. A Statement prepared by a Certified Arborist explaining, as applicable:

- With respect to any protected tree which is to be relocated, how each such protected tree is to be relocated and maintained.
- With respect to any proposed grade change which might adversely affect or endanger any protected tree, how each such protected tree shall be protected and maintained

☐ 3. Attachment No. 1: (Required if this application is being filed in connection with any other permit.)

☐ Not applicable I/We are removing protected tree(s) only; no other hanles are planned

04. A check in the amount of fifty dollars (\$50.00), payable to the City of Newton.

Note: Any payment to the Tree Replacement Fund must be made before Tree Removal Permit is granted.

By My/Our signature(s) below, I/We hereby certify that I am/We are the record owner(s) of the property referenced above. I/We understand that the City has no obligation to act on this application until it is deemed to be complete.

Signed under penalties of perjury this 3 Ori day of 1\.° ".9.E. 20d 4

Witness My/Our hand(s) and seal(s):

*Jason A. Greenberg as
attorney for Anthony B. Radio*

(Signature)

(Signature)

ATTORNEY -3-01 50A-n A, & 502 602

(Name — please print)

am —please print)

W07114477; 116.641 O.Wa

(Mailing address)

(Mailing address)

(Telephone)

(Fax)

4-0031

(Telephone)

(Fax)

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Ald. George Mansfield, Land Use Committee Chair.

From: John Daghlion, Associate City Engineer

Re: Special Permit – 13 Elm Street

Date: March 1, 2007

CC: Lou Taverna, PE City Engineer (via email)
Nancy Radzevich, Chief Planner (via email)
Linda Finucane, Associate City Clerk (via email)
Alexandra Ananth, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

*Elm Street Townhouse
13 Elm Street, Newton, MA
Prepared by: IF Hennessy & Company
Dated: June 16, 2005
Revised: 1-3- '06*

Drainage:

1. The drainage report is correct for the City of Newton's 100-year storm.
 2. The runoff from the proposed driveway needs to be addressed, the runoff needs to be captured on site via catch basin or trench drain both of which will require a 4' sump and Neenah R-3705 gas trap outlet, then be connected to an on site leaching system.
 3. An operations and maintenance plan is needed for the on site drainage system. It should define the inspection and cleaning intervals of the infiltration system, the frequency of sweeping the driveways. This plan & document should be incorporated into the Homeowners' Association and recorded at the Registry of Deeds.
- / 4. Future access for maintenance of proposed dry well #1 may be problematic due to its location.

5. The roof drains shall be connected directly to the proposed dry wells rather than connect to the proposed catch basins.
6. The dry wells shall have drain manhole frame and cover placed to finished grade for access and future maintenance.
7. Catch basin #2 is placed in grass-pavers area, some proposed finished grade elevations are needed along the edge of the paved driveway to ensure that the runoff from the driveway will sheet flow to this basin.

Water:

1. The proposed water main configuration for this development is unacceptable to the Utilities Division. The proposed main shall extend off the existing main within Elm Street then shall go to a master meter located in a heated utility room in one of the proposed units; thereafter it shall branch off to the individual units.
2. The ownership and long-term maintenance of the domestic water system and all appurtenances of the water distribution system shall be the responsibility of the applicant.
3. The installation of the proposed blow-off at the end of the water system will be the responsibility of the applicant, not the City; the City will provide the inspections for the installation.
4. The Fire Department may require a hydrant located within the property.
5. The size & location of the existing City's water main needs to be identified.
6. The proposed water main shall be pressure tested and witnessed by the Engineering Division.
7. A Utility Connection Permit from the Department of Public Works is required for the domestic services for this project.

Sewer:

V

1. The proposed 6" SDR PVC pipe shall be replaced with an 8" SDR PVC pipe.
2. The service connections from the proposed sewer extension shall be 6" SDR PVC pipe, not 4" pipe.
3. The ownership and long-term maintenance of the sanitary sewer connection and all appurtenances of the collection system shall be the responsibility of the applicant.
4. Capacity calculations are required for the downstream collection system.
5. The sewer service and manholes shall be tested and witnessed in accordance to the City's Construction Standards.
6. A sewer manhole invert table detail is needed (see attached).
7. A Utility Connection Permit from the Department of Public Works is required for the sanitary sewer service.
8. The existing water & sewer services to the dwelling shall be cut and capped at the main and be completely removed from the site and properly back filled. The Engineering Division must inspect this work; failure to having this work inspected may result in the delay of issuance of the Utility Connection Permit.

Construction Management:

1. A construction management plan is needed for this project. It should address in specific terms the various stages of construction activities from groundbreaking to completion, linking construction activity to target dates and so on.
2. During construction, mechanical street sweeping of the Elm Street may be required at the discretion of the City Engineer.
3. A stabilized construction exit/entrance is needed; a detail needs to be incorporated onto the plans for approval.
4. Catch basins in Elm Street downstream of the site may require Siltsacs during construction, this will be determined by the City Engineer.
5. No construction shall take place during legal holidays and religious holidays.

6. Offsite holding areas for delivery trucks need to be identified. This project site is situated in a residential neighborhood where street parking is limited.
7. All on site office trailers, storage trailers/containers, and open storage areas need to be identified on a site plan prior to the commencement of construction activity.
8. The contractor shall retain Police Officers for detail work during construction within the Public Way, deliveries of materials, trucking off excess materials, or when the Chief of Police deems it necessary.
9. Adequate warning & construction signs need to be in place prior to any construction activity. The type of signage shall conform to the City's Construction Standards and locations of such signage shall need the approval of the City's Traffic Engineer prior to any construction activity. A traffic mitigation plan shall be submitted to the Traffic Engineer and the Newton police Chief for approval prior to any construction.

On site Circulation:

1. The proposed grass pavers areas scale to 9' wide this seems a bit narrow and may be difficult for emergency vehicles to maneuver. No parking signs should be placed these areas to ensure they area kept clear at all times.
2. The dashed line hammer head located at the bend of the proposed driveway is not labeled will that be grass pavers? This needs to be clarified.

General:

1. As a public benefit, the sidewalk and curbing along the entire frontage should be updated with cement concrete & granite curbing.
2. How will trash collection be handled for both these units? Will trash be stockpiled at the proposed driveway entrance or in front of each unit? This needs to be review by the City's Director of Environmental Affairs.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be

made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*

4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building permits with the Department of Inspectional Service prior to any construction.
6. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

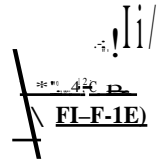


David B. Cohen
Mayor

CITY OF NEWTON, MASSACHUSETTS

FIRE DEPARTMENT HEADQUARTERS

1164 Centre Street, Newton Center, MA 02459-1584
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230
FAX: (617) 796-2211 EMERGENCY: 911



Joseph E. LaCroix
Chief

Aldei Ilan George Mansfield
Land Use Committee
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, Ma 02459

2/14/07

Re: 13 Elm Street

Dear Mr. Mansfield,

The site plans for the 5 attached dwellings at 13 Elm Street have been reviewed and approved by the Newton Fire Department for accessibility and water with the following condition:

- Units 4&5 have a sprinkler system installed in accordance with NFPA 13R.

If you have any questions, please do not hesitate to call me at 796-2210.

Sincerely,

A handwritten signature of Bruce A. Proia.

Bruce A. Proia
Assistant Chief of Operations

Cc: 'Alexandra Ananth, Planning Department
Deputy Chief James Thorne, Fire Prevention
Jason Rosenberg, Esq.

Neighborhood Comparison Chart (Prepared by Planning Department)

Address	Approx. Yr. Built	Lot Size	# Units	Lot Area Per Unit	Approx. Ft. Per Unit	Approx. Sq. FAR	Approx. Material
5-7 Elm St	1961	19,453	2	9,727	2,160	1,080	(0.11) wood shingle
13 Elm (Existing)	1860	30,403	2	15,202	2,446	1,223	(0.08) stucco
21 Elm	1850	19,750	1	19,750	2,473	2,473	(0.13) wood shingle
29 Elm	1945	7,992	1	7,992	1,470	1,470	(0.18) vinyl
31 Elm	1880	11,722	2	5,861	3,473	1,737	(0.30) vinyl
37 Elm	1900	40,000	2	20,000	2,488	1,244	(0.06) vinyl
43-45 Elm	1880	12,000	2	6,000	3,477	1,739	(0.29) asbestos shingle
51 Elm	1986	17,500	1	17,500	2,396	2,396	(0.14) clapboard
22 Elm	1880	6,750	1	6,750	1,272	1,272	(0.19) vinyl
26 Elm	1955	8,250	1	8,250	1,186	1,186	(0.14) vinyl
32 Elm	1870	12,750	1	12,750	2,400	2,400	(0.19) vinyl
38 Elm	1880	13,500	2	6,750	2,459	1,230	(0.18) asbestos shingle
46 Elm	1780	11,250	2	5,625	3,332	1,666	(0.30) wood shingle
50-52 Elm	1921	7,500	2	3,750	2,332	1,166	(0.31) vinyl
54-56 Elm		14,400	4	3,600	3,905	976	(0.27)
62 Elm	1900	15,600	3	5,200	6,110	2,037	0.40 asbestos shingle
68-70 Elm	1855	10,000	2	5,000	2,576	1,288	(0.26) vinyl
114 River St		6,837	BU 1				
118 River	1900	7,023	2	3,512	1,517	759	(0.22) wood shingle
2-4 Auburndale Ave	1896	11,552	2	5,776	2,200	1,100	(0.19) vinyl
10 Auburndale	1920	7,007	3	2,336	2,370	790	(0.34) vinyl
14 Auburndale	1900	8,535	2	4,268	1,998	999	(0.23) vinyl
18-20 Auburndale	1890	7,257	2	3,629	1,046	523	(0.14) wood shingle
16 Oak Ave	1986	7,257	1	7,257	2,120	2,120	(0.29) vinyl
26 Oak	1961	20,000	1	20,000	1,560	1,560	(0.08) wood shingle
34 Oak	Vac	22,998	Vac.		1,561		(0.07)
38 Oak	1890	5,000	1	5,000	1,355	1,355	(0.27) vinyl
42 Oak	1880	20,000	2	10,000	1,834	917	(0.09) wood shingle
50 Oak	1900	7,250	1	7,250	1,368	1,368	(0.19) vinyl
54 Oak	1889	7,250	1	7,250	1,994	1,994	(0.28) vinyl
58-60 Oak	1884	10,000	2	5,000	2,764	1,382	(0.28) vinyl
Average		13,122		8,310	2,401	1,429	(0.19)
13 Elm St. Proposed		30,403	5	6,081	11,702	2,340	0.42

Mar 07 05 11:17a

P.2



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

Michael J. Kruse, Director

Telephone

(617).796-1120

Telefax

(617) 796.1142

David B. Cohen.
Mayor

RECORD OF ACTION


DATE: _____ **March 1, 2005**

SUBJECT: _____ **13 Elm Street — Waive Demolition Delay**

At a scheduled meeting and public hearing on February 24, 2005 the Newton Historical Commission, by a vote of 5 to 0, passed the following motion:

RESOLVED to waive the one-year demolition delay on the existing house based on the plans which have been submitted to the Commission subject to the final review of the working drawings by Commission member William Roesner. These final plans must note that they will be using wood siding, asphalt shingles for the roof, and simulated true divided light windows and should include all of the elevations for the buildings as well *as* the site plan.

Voting in the Affirmative: John Rodman, Chairman; Allen Johnson, Rodney Barker,
Nancy Grissom, William Roesner



Lara Kritzer, Acting Secretary